

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No: 10/553,143

Attorney Docket No: 133630-0003

Applicant: Doris Hjorth Hansen

Invention: SUTURE BAND

Serial No: 10/553,143

Filed: October 14, 2005

Examiner: Jay R. Sigler

Petition under 37 CFR 1.181(a)

Sir:

Please enter the following Petition to Withdraw a Holding of Abandonment (37 CFR 1.181(a)) concerning the above referenced matter. The Applicant originally filed a Petition to Revive an Unavoidably Abandoned Application filed on November 20, 2008 (Attachment 1), and a corresponding Petition to refund the fee of \$270.00 paid by the Applicant in conjunction with the Petition to Revive (Attachment 2). In a phone interview with attorney John Gillen, it was requested that the Applicant file the present petition.

The present Application was abandoned since the USPTO did not mail the Office Communication dated December 12, 2007 and referred to in the Notice of Abandonment dated June 30, 2008 (Attachment 3). The Applicant's Representative maintains an electronic mailbox exclusively for communications from the Patent Office, in addition we also receive communications from the Patent Office via U.S. Mail. When a communication is received in our office, it is first date stamped as "received" by our administrative assistant and forwarded to our docketing clerk for entry into our docket system. The docketing clerk initials a hard copy of the document when entered into the docket system.

In December '07 and through June 08, we utilized a docket software program by CPI. On July 1, 2008, we migrated to another docketing software program, PATTSY. Due to the software change, the exact master docket report from December 07 – March 08 is not available to show that the 12/12/07 Office Action was not received. However, Attachment 4 illustrates an email that was sent by the docket clerk regarding responses due between March 10, 2008 and March 12, 2008.(our reference number is TTM-000133630-0003) Attachment 5 is a copy of the front cover of the patent folder and shows that that date was not entered. Attachment 6 is a copy of the PATTSY docket entries for this matter. Attachment 7 is a copy of the Notice of Abandonment that was electronically transmitted to our docketing mailbox on November 20, 2008, the date of receipt and corresponding docket entry. Attachment 8 illustrates the present docket record for this matter from PATTSY now showing the office action. Attachment 9 is a current copy of the docket report showing this docket entry.

As stated in the previous petition, the Applicant was made aware of the missing office action upon receipt of the Notice of Abandonment. The Applicant subsequently checked private pair and did not see any entry corresponding to the December 12, 2007 Office Communication. The Applicant then checked public pair, and discovered an entry for the Office Communication in the Transaction History but not in the Image Wrapper. The Applicant contacted the Examiner on November 17, 2008, and the Examiner indicated that he had prepared an Office Communication on December 12, 2007, but did not have a record of it being communicated to the Applicant. The Examiner investigated, and determined that the Office Communication had not been transmitted by the USPTO mail room. As a result of our inquiry, the Office Communication was mailed electronically on November 20, 2008, and PAIR was updated accordingly.

Thus, in light of this error by the USPTO, the Applicant respectfully submits that the burden of showing that this office action was not received by the Applicant's representative has been met. The Application further requests that the holding of abandonment be withdrawn, a

refund of the associated fee to revive the Application, and that the period for reply be reset for the non-received office action.

Date: January 30, 2009
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